

HOUSE BILL NO. 451

INTRODUCED BY SONJU, WINDHAM, HARRIS, ROBERTS, LANGE, MCGILLVRAY, EVERETT, CLARK,
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A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING ISSUANCE BY LOCAL GOVERNMENTS OF
BONDS FOR THE CONSTRUCTION, ~~RECONSTRUCTION, OR IMPROVEMENT OF URBAN HIGHWAY~~
~~SYSTEMS, ROADS, STREETS, AND TRANSPORTATION IMPROVEMENTS~~ AND CONSTRUCTION
ENGINEERING PHASES OF PROJECTS ON THE URBAN HIGHWAY SYSTEM; AUTHORIZING THE
TRANSPORTATION COMMISSION TO ENTER INTO CONTRACTS WITH LOCAL GOVERNMENTS TO USE
FEDERAL URBAN FUND APPORTIONMENT TO SECURE THE PAYMENT OF THE BONDS; AMENDING
SECTION 60-2-127, MCA; AND PROVIDING ~~AN IMMEDIATE~~ A DELAYED EFFECTIVE DATE."

WHEREAS, 23 U.S.C. 122, as amended by section 311 of the National Highway System Designation
Act of 1995 (NHS Act), makes bond-related costs eligible for federal reimbursement on any eligible federal-aid
project; and

WHEREAS, under the NHS Act, states and local governments can issue bonds to fund federal-aid
projects that are payable from future federal-aid highway funds; and

WHEREAS, these financing mechanisms are referred to as grant anticipation revenue vehicles
(GARVEE) or grant anticipation notes (GANS); and

WHEREAS, the Montana Department of Transportation has funded urban transportation improvements
through federal-aid highway funds apportioned to the urban highway system under section 60-3-211, MCA; and

WHEREAS, it is the intention of this legislation to allow eligible local governments to issue GARVEE
bonds or GANS to construct approved urban projects and commit funds apportioned to the urban highway
system under section 60-3-211, MCA, by the Department of Transportation to their repayment.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Authorization of bonds. (1) Upon approval by the Montana transportation
commission, a city, ~~town~~, county, or consolidated city-county government may issue revenue bonds to finance
the construction, ~~reconstruction, or improvement of urban highway systems, roads, streets, and transportation~~

1 ~~improvements~~ AND CONSTRUCTION ENGINEERING PHASES OF PROJECTS ON THE URBAN HIGHWAY SYSTEM within its
2 jurisdiction to:

- 3 (a) fund the share that the bond issuer might otherwise expend for proportionate matching of federal
4 funds allocated for the construction of highways, roads, streets, or bridges;
5 (b) make a deposit to a reserve fund securing the bonds; and
6 (c) pay costs of issuance and sale of the bonds.

7 (2) The bonds may be authorized by a resolution adopted by the governing body of the bond issuer
8 without need for authorization by the electors of the bond issuer. The resolution must establish the terms,
9 covenants, and conditions of the bonds. The resolution may authorize that the bonds be issued under and
10 secured by a trust indenture between the issuer and a trustee, which may be a trust company or bank having
11 the power of a trustee inside or outside the state. The bonds may be sold at public or private sale, on terms and
12 at prices that the governing body determines to be advantageous. The bonds do not constitute and may not be
13 included as an indebtedness or liability of the issuer for purposes of any statutory debt limitation, do not
14 constitute general obligations, and may not be secured by the taxing power of the issuer.

15 (3) The bonds ~~must be payable solely~~ ARE PAYABLE from and secured by the grants or other funds
16 payable to and received by the department of transportation ~~from the federal highway administration~~ and
17 apportioned by the department of transportation to the issuer of the bonds for urban highway system
18 improvements OR FOR IMPROVEMENTS CONDUCTED AS PROVIDED IN 15-70-101(2). In the resolution or the trust
19 indenture providing for the issuance of the bonds, the governing body of the issuer shall irrevocably pledge and
20 appropriate to the debt service fund from which the bonds are payable the funds apportioned or to be
21 apportioned to the issuer by the department of transportation ~~from the federal highway administration~~ in an
22 amount sufficient to pay the principal of and the interest on the bonds as due.

23 (4) Bonds may be issued under this section only if:

24 (a) the bonds are issued in principal amounts and on terms that provide that the amount of principal and
25 interest due in any fiscal year on the bonds and on any other revenue bonds of the issuer outstanding and issued
26 under this section does not exceed the amount of the revenue pledged to the payment of the bonds and to be
27 received in that fiscal year as estimated by the governing body of the issuer in the resolution authorizing the
28 issuance of the bonds; and

29 (b) the final maturity of the bonds is not more than 20 years after the date of issuance of the bonds.

30 (5) Proceeds from the sale of the bonds must be used to fund urban highway system projects approved

1 by the transportation commission through an agreement with the issuer in accordance with 60-2-127(4), and the
2 proceeds to be used for the construction must be deposited with the department of transportation. The proceeds
3 must be expended by the department of transportation in accordance with other applicable provisions of law.

4 (6) A city, ~~town~~, county, or consolidated city-county government issuing bonds pursuant to this section
5 shall certify to the director of the department of transportation and the director of the department of
6 administration promptly upon the issuance of the bonds the principal amount and terms of the bonds and the
7 amount of money required each fiscal year for the payment of principal and interest on the bonds.

8 (7) The powers conferred on a city, ~~town~~, county, or consolidated city-county government by this section
9 are in addition to and are supplemental to the powers conferred by any other general, special, or local laws. To
10 the extent that the provisions of this section are inconsistent with the provisions of any other general, special,
11 or local law, the provisions of this section are controlling.

12
13 **Section 2.** Section 60-2-127, MCA, is amended to read:

14 **"60-2-127. Allocation of funds for projects.** (1) Each year, out of federal-aid highway funds available
15 for construction purposes, the commission shall allocate a portion of the funds for projects located on:

- 16 (a) the national highway system;
17 (b) the primary highway system;
18 (c) the secondary highway system;
19 (d) the urban highway system; and
20 (e) state highways.

21 (2) In making allocations under subsection (1), the commission shall comply with all applicable
22 provisions relating to the use of federal-aid highway funds contained in Title 23, U.S.C.

23 (3) Notwithstanding the allocations made available to the secondary and urban highway systems in
24 subsection (1), the commission may, with the concurrence of the appropriate local officials, authorize the use
25 of federal-aid highway funds allocated under subsections (1)(c) and (1)(d) for any project eligible under 23
26 U.S.C. 133(b) relative to the surface transportation program.

27 (4) The commission may enter into an agreement with a city, ~~town~~, county, or consolidated city-county
28 government, under terms and conditions that the commission determines necessary, to allow the city, ~~town~~,
29 county, or consolidated city-county government recipient of urban funds apportioned under 60-3-211 to dedicate
30 all or a portion of the urban fund apportionment to the retirement of the bonds authorized by [section 1]."

1
2 NEW SECTION. **Section 3. Codification instruction.** [Section 1] is intended to be codified as an
3 integral part of Title 17, chapter 5, 7, CHAPTER 7, part 1, and the provisions of Title 17, chapter 5, 7, CHAPTER 7,
4 part 1, apply to [section 1].

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6 NEW SECTION. **Section 4. Effective date.** [This act] is effective ~~on passage and approval~~ JULY 1,
7 2006.

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